

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Schubert, U., et al.

**Serial No.:** 10/510,355

**Art Unit:** 1654

**Filed:** April 4, 2003

**Examiner:** Abdel A. Mohamed

**For:** AGENTS FOR TREATING FLAVIVIRIDAE INFECTIONS

**DECLARATION OF ULRICH SCHUBERT UNDER 37 CFR RULES 1.131 AND 1.132**

We, Ulrich Schubert, Hans Will and Huseyin Sirma, declare the following:

1. I am one of the inventors of the subject application (the '355 Application) and I am an employee of the Assignee. I am familiar with the application, the Office Action dated June 13, 2008 and the references cited therein. This Declaration is intended to form part of a response to the June 13, 2008 Office Action.
2. The claims relate to an agent for inhibiting at least one of release, maturation and replication of a member of the Flaviviridae family.
3. Page 4 of the June 13, 2008 Office Action states that claims 44-53 are rejected under 35 U.S.C. § 102(e) as being anticipated by Schubert et al (U.S. Pub. No. 2004/0106539)(the "539 Application").

4. I am one of the inventors on the '539 Application. That application and this application are both commonly owned by Viromics GmbH at the time of the invention.

5. Specifically, I invented, *inter alia*, an agent comprising at least one proteasome inhibitor for use in inhibiting at least one of release, maturation and replication of members of the Flaviviridae family. See paragraphs [0060], [0091], [0163], [0199] of the '539 Application. To the extent such subject matter appears in the '539 Application, it represents my work and not the work of others.

6. Independent claim 44 of the subject '355 Application recites:

An agent for inhibiting at least one of release, maturation and replication of a member of the Flaviviridae family selected from Flavivirus or Pestivirus wherein the agent comprises, as an active component, at least one proteasome inhibitor in a pharmaceutical preparation.

I am the inventor of the subject matter of claim 44. Therefore, the invention of an agent comprising at least one proteasome inhibitor for use in inhibiting at least one of release, maturation and replication of members of the Flaviviridae family, as disclosed but not claimed in the '539 Application, was not invented by another. Rather it was invented by me.

7. The information regarding the proteasome inhibitor agent was first invented by me and then passed along to my patent attorneys who incorporated it into the disclosure of the '539 Application. Accordingly, I invented that subject matter before the filing date of '539 Application. Otherwise, it could not have been incorporated therein.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Ulrich Schubert

Dated: 09.12.2008